

To Ms S Blair-Jordan

C/o [xxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxxxxxxxxxx](mailto:xxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxxxxxxxxxx)

DWP Central Freedom of Information Team

e-mail: [freedom-of-information-xxxxxxx@xxx.xxx.xx](mailto:freedom-of-information-xxxxxxx@xxx.xxx.xx)

Our Ref: VTR 2466-2969

DATE 2 November 2011

Dear Ms Blair-Jordan ,

Thank you for your Freedom of Information request dated 5 October 2011 that was received by Department for Work and Pensions (DWP) Adelphi and forwarded for response by the DWP Commercial Management of Medical Services Freedom of Information Officer.

In your email you asked to be provided with information answering the following questions:-

Dear Department for Work and Pensions,

I am a 55 year old disabled woman with several long term illnesses and a spinal disability I have been found unfit for work by my General Practitioner, my Orthopaedic Consultants, both of whom state I will never be fit for work, and the Incapacity Benefits Doctor for the last 10 years.

I am currently in receipt of Incapacity Benefit for life, DLA high rate mobility and DLA high rate care, I receive a severe disability payment in my Income Support Benefit to ensure I receive the amount of money that "they" assess I need to live on.

Having read several documents (carewatch.com, DPAC, Right To Work etc) and having listened to several Conservative and Liberal Democrat Ministers it seems to me that there is a possibility that I could be found capable of work by ATOS employees who carry out the new ESA Medical Test.

How is it that the evidence from my General Practitioner, my Consultant, the Incapacity Benefits Doctor, The 3 MRI's reports and several x-rays will be ignored and I will have to go through this stressful, humiliating process, which will have a derogatory effect on my health?

In answer to your question and with regard to your medical history, the Welfare Reform Act 2007 provides the Secretary of State with regulation making powers to provide for how to determine whether a person has limited capability for work or limited capability for work-related activity. These powers extend to the manner of carrying out the assessment, requiring information and evidence from persons, and requiring persons (claimants) to attend such medical examination as the regulations may require (section 8 deals with limited capability for work, section 9 with limited capability for work-related activity).

The Secretary of State has used these powers to make the Employment and Support Allowance (ESA) Regulations 2008. Regulations 20 and 36 of the ESA Regulations 2008 set out the information and evidence a claimant may be required to provide in determining limited capability for work or limited capability for work-related activity respectively.

Regulations 23 and 38 provide, respectively, for a claimant to be called by or on behalf of a Healthcare Professional (HCP) approved by the Secretary of State, to attend a medical examination.

The ESA (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No 2) Regulations 2010 provide, at regulation 16, for the ESA regulations 2008 to apply to IB reassessment cases for the purpose of determining entitlement to ESA as part of the migration from Incapacity Benefit (IB) awards to ESA.

All claimants who are currently in receipt of IB will between April 2011 and 2013 be referred by Jobcentre Plus for a medical assessment, which will be undertaken by Atos Healthcare. Atos Healthcare will issue a questionnaire (ESA 50), which should be completed and returned by the claimant to Atos Healthcare who undertake a pre-board scrutiny of the ESA 50. The results of that scrutiny will, depending upon the information provided decide if a face to face assessment is required.

DWP approves HCPs employed by Atos Healthcare to carry out these medical examinations, as set out in regulations 20 and 36. These HCPs are therefore persons providing services to the Secretary of State, for the purpose of section 3 of the Social Security Act 1998.

HCPs are expected to consider any additional medical evidence presented to them at the assessment by the claimant. However, benefit entitlement is determined by DWP Decision Makers, (DM) not Atos Healthcare. In order to make a decision on benefit entitlement the DM considers all the available evidence not just the reports received from Atos Healthcare. Further evidence may include the claimant's 'self assessment', reports from GPs, hospital doctors and other clinicians.

The Work Capability Assessment (WCA) focuses on the functional effects of an individual's condition rather than the condition itself providing a comprehensive and accurate assessment of an individual's ability to work, taking into account the modern workplace.

Introducing a more accurate assessment has led to more claimants being found fit for work. This is in line with the evidence which shows that work is generally good for your health.

If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

DWP Central Fol Team

-----  
**Your right to complain under the Freedom of Information Act**

If you are not happy with this response you may request an internal review by e-mailing [freedom-of-information-request@dwpgsi.gov.uk](mailto:freedom-of-information-request@dwpgsi.gov.uk) or by writing to DWP, Central Fol Team, 5<sup>th</sup> Floor The Adelphi, 1-11, John Adam Street, London WC2N 6HT. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF [www.ico.gov.uk](http://www.ico.gov.uk)